

UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF NEW HAMPSHIRE

United States of America *

*

v. *

Cr. No. 1:13-cr-00028-SM

*

Kurt Sanborn *

ASSENTED-TO MOTION FOR MENTAL COMPETENCY DETERMINATION

Defendant Kurt Sanborn, by and through his counsel, Ramsdell Law Firm, P.L.L.C., moves for a determination regarding Mr. Sanborn's mental competency pursuant to 18 U.S.C. §4241(a). In support of his assented-to motion, Mr. Sanborn represents the following:

1. On May 9, 2014, Mr. Sanborn pled guilty to one count of wire fraud and one count of bank fraud. A sentencing hearing is scheduled for June 24, 2015.

2. The presentence report prepared by the United States Probation Office indicates that Mr. Sanborn has suffered from mental health issues since at least December 2014. Presentence Investigation Report ("PSR"), ¶66A. In December 2014, Mr. Sanborn twice attempted suicide, including once while in custody. PSR, ¶66A.

3. Undersigned counsel visited Mr. Sanborn at the Strafford County House of Corrections yesterday, May 27, 2015. Mr. Sanborn's remarks and responses to undersigned counsel's questions indicated a lack of awareness about the history and status of the above-captioned case, the plea agreement, and undersigned counsel's representation of him. Mr. Sanborn's remarks and responses indicated an inability to understand the nature of the proceedings or to assist counsel at a sentencing hearing.

4. 18 U.S.C. §4241(a) provides that: "[a]t any time after the commencement of a prosecution for an offense and prior to the sentencing of the defendant . . . the defendant . . . may

file a motion for a hearing to determine the mental competency of the defendant.” “The court shall grant the motion . . . if there is reasonable cause to believe that the defendant may presently be suffering from a mental disease or defect rendering him mentally incompetent to the extent that he is unable to understand the nature and consequences of the proceedings against him or to assist properly in his defense.” *Id.*

5. “Prior to the date of the hearing, the court may order that a psychiatric or psychological examination of the defendant be conducted, and that a psychiatric or psychological report be filed with the court pursuant to the provisions of section 4247(b) and (c).” 18 U.S.C. §4241(b). An evaluation ordered pursuant to 18 U.S.C. §4247(b) “shall be conducted in the suitable facility closest to the court.” 18 U.S.C. §4247(c) provides the requirements of the psychiatric or psychological report that shall be filed with the court and provided to Mr. Sanborn’s counsel and the government’s attorney.

6. Mr. Sanborn’s remarks and responses to undersigned counsel’s questions provide “reasonable cause to believe that the defendant may presently be suffering from a mental disease or defect rendering him mentally incompetent to the extent that he is unable to understand the nature and consequences of the proceedings against him or to assist properly in his defense.” *See* 18 U.S.C. §4241(a). Consequently, the court should order that Mr. Sanborn undergo a psychiatric or psychological examination and report of the examination should be filed with the court and provided to counsel for the parties. *See* 18 U.S.C. §4241(b), 4247(b) and (c).

7. No memorandum of law is filed with this pleading because all necessary law is cited herein. *See* L.R. 7.1(a)(2).

8. The government, by and through AUSA Robert M. Kinsella, assents to the relief requested herein. *See* L.R. 7.1(c).

WHEREFORE, Defendant Kurt Sanborn respectfully requests that this Honorable Court:

- A. Grant this Assented to Motion for Mental Competency Determination; and
- B. Grant such other and further relief as may be just and proper.

Respectfully submitted,

KURT SANBORN

By his attorneys,

Dated: May 28, 2015

By: /s/ Michael D. Ramsdell
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CERTIFICATE OF SERVICE

I certify that a copy of this pleading was provided to all counsel of record on today's date via electronic mail.

By: /s/ Michael D. Ramsdell
Michael D. Ramsdell